

Postal Rate Commission

§ 3001.23

statement or exhibit thereto filed pursuant to this section shall not be accepted in the “record,” as defined by § 3001.5(k) except to the extent that it is (1) otherwise formally introduced in evidence, or (2) a proper subject of official notice, pursuant to § 3001.31(j).

(d) *Ex parte communications—exception.* A statement filed pursuant to this section shall not be considered an ex parte communication within the meaning of § 3001.7.

[42 FR 8142, Feb. 9, 1977. Redesignated at 48 FR 15627, Apr. 12, 1983, as amended at 58 FR 38976, July 21, 1993; 68 FR 47, Jan. 2, 2003]

§ 3001.21 Motions.

(a) *Scope and contents.* An application for an order or ruling not otherwise specifically provided for in this part shall be by motion. Motions shall set forth with particularity the ruling or relief sought, the grounds and basis therefor, and the statutory or other authority relied upon, and shall be filed with the Secretary and served pursuant to the provisions of §§ 3001.9 to 3001.12. All motions to dismiss proceedings or other motions which involve a final determination of the proceeding shall be addressed to the Commission. After a presiding officer is designated in any proceeding, and before the issuance of an initial decision pursuant to § 3001.39 or certification of the record to the Commission pursuant to § 3001.38, all other motions in that proceeding shall be addressed to the presiding officer.

(b) *Answers.* Within seven days after a motion is filed, or such other period as the rules provide or the Commission or presiding officer may fix, any participant to the proceeding may file and serve an answer in support of or in opposition to the motion pursuant to §§ 3001.9 to 3001.12. Such answers shall state with particularity the position of the participant with regard to the ruling or relief requested in the motion and the grounds and basis and statutory or other authority relied upon. Unless the Commission or presiding officer otherwise provides, no reply to an answer or any further responsive document shall be filed.

(c) *Motions to strike.* Motions to strike are requests for extraordinary relief and are not substitutes for briefs or rebuttal evidence in a proceeding. All

motions to strike testimony or exhibit materials are to be submitted in writing at least 14 days before the scheduled appearance of the witness, unless good cause is shown. Responses to motions to strike are due within seven days.

[38 FR 4327, Feb. 13, 1973, as amended at 51 FR 8827, Mar. 14, 1986; 58 FR 38976, July 21, 1993; 65 FR 6540, Feb. 10, 2000]

§ 3001.22 Requests for waiver.

Upon request by motion, any requirement of any subpart of this Part 3001 may be waived in whole or in part to the extent permitted by law upon a showing that such waiver will not unduly prejudice the interests of other participants and is consistent with the public interest and the Commission's expeditious discharge of its responsibilities under the Act. A request for waiver shall not be entertained unless it is timely filed so as to permit Commission disposition of the request prior to the date specified for the requirement for which waiver is requested. The pendency of a request for waiver does not justify or excuse any person from timely meeting the requirements of this part.

§ 3001.23 Presiding officers.

(a) *Authority delegated.* Presiding officers shall have the authority, within the Commission's powers and subject to its published rules, as follows:

(1) To regulate the course of the hearing, including the recessing, reconvening, and adjournment thereof, unless otherwise directed by the Commission, as provided in § 3001.16;

(2) To administer oaths and affirmations;

(3) To issue subpoenas authorized by law;

(4) To rule upon offers of proof and receive relevant evidence;

(5) To take or authorize that depositions be taken as provided in § 3001.33;

(6) To hold appropriate conferences before or during hearings and to rule on matters raised at such conferences including those specified in paragraph (d) of § 3001.24;

(7) To dispose of procedural requests or similar matters but not, before their initial or recommended decision, to